

MINUTES
REGULAR MEETING OF THE CITY COUNCIL
CITY OF MEMPHIS

October 21, 2008

3:30 P.M. SCHEDULED SESSION

3:33 P.M. MEETING COMMENCED

ROLL CALL: William Boyd, Joe Brown, Harold Collins, Shea Flinn, Edmund Ford, Jr., Wanda Halbert, Reid Hedgepeth, Bill Morrison, Jack Sammons, Jim Strickland, Barbara Swearengen Ware and Chairman Myron Lowery
Janis Fullilove was absent

**THE MEETING WAS CALLED TO ORDER
BY SERGEANT-AT-ARMS**

INVOCATION

The meeting was opened with prayer by Pastor Orlester Johnson from Greater Faith Tabernacle Ministries. Ford presented Pastor Orlester Johnson with a certificate naming him Chaplain of the day.

These minutes record the agenda items and the action taken by the Council on such items. The full text of the original of the ordinances, resolutions and supporting documents, including an audio recording of Council's deliberations are filed and maintained in the office of Council Records/Records Management, Room 2B-08. The original ordinances and/or resolutions adopted by the Council shall control in the event of any conflict between the description in these minutes and the original documents, ordinances and/or resolutions.

2. **RESOLUTION APPROVING A PLANNED DEVELOPMENT LOCATED ON THE NORTHWEST CORNER OF HOUSTON LEVEE AND MACON ROAD, CONTAINING 26.87 ACRES IN AN AREA CURRENTLY GOVERNED BY THE LEE LINE FARMS PLANNED DEVELOPMENT (PD 06-314CC). (Held from 9/23)**

Case No. PD 06-314cc

Appellant: Gray's Creek Association

Applicant: Wal-Mart Stores

Request: Uphold the appeal of the Gray's Creek Association and thereby reverse Land Use Control Board approval of a site plan for a proposed Wal-Mart Supercenter

LUCB recommendation: APPROVAL, with conditions

OPD recommendation: REJECTION, of the site plan

DROPPED

4. **RESOLUTION APPROVING A PLANNED DEVELOPMENT BEGINNING AT THE SOUTHERN TERMINUS OF COBB ROAD; +635.06 FEET SOUTH OF U.S. HIGHWAY 64 CONTAINING 132.15 ACRES IN THE GRAYS CREEK PLANNED DEVELOPMENT 3RD AMENDMENT.**

Case No. PD 08-314

Held to November 18, 2008

1. **RESOLUTION HONORING THE LIFE OF GWENDOLYN "GWEN" JOYCE SNEED.**

MOTION: Ford
SECOND: Brown

APPROVED, by unanimous voice vote

3. **RESOLUTION APPROVING A PLANNED DEVELOPMENT LOCATED ON THE NORTHEAST CORNER OF LAMAR AVENUE AND MCLEAN BOULEVARD, CONTAINING 0.25 ACRE IN THE HIGHWAY COMMERCIAL (C-H) DISTRICT.** (Held from 9/23)

Case No. PD 08-320

Chairman Lowery recognized the following persons who spoke from the audience:

Stoy Bailey, 1700 Vesey Ave., Mphs, TN 38114
Sutton M. Hayes, 2298 Young Ave., Mphs, TN 38104
Brett Waddell, 1847 Manila Ave., Mphs, TN 38114
Rachel Waddell, 1847 Manila Ave., Mphs, TN 38114

Applicant: Carolyn A. Glover
Dedrick Brittenum – Representative

Request: A planned development to permit two principle structures on one zoning lot

LUCB recommendation: REJECTION

OPD recommendation: APPROVAL, with conditions

MOTION: Flinn – Hold 2 weeks

SECOND: Strickland

AYES: Boyd, Flinn, Hedgepeth, Sammons, Strickland and Chairman Lowery

NAYS: Brown, Collins, Ford, Halbert, Morrison and Ware
Fullilove was absent

FAILED, set up as Special Item #1

Friendly Amendment: 1 year use and occupancy permit

MOTION: Hedgepeth

Friendly Amendment accepted

MAIN MOTION: Hedgepeth

SECOND: Ford

AYES: Brown, Collins, Ford, Halbert, Hedgepeth, Morrison, Sammons, Strickland, Ware
and Chairman Lowery

NAYS: Boyd and Flinn
Fullilove was absent

APPROVED, as amended

5. **RESOLUTION APPROVING A SUBDIVISION REVOCATION LOCATED ON THE
SOUTHEAST CORNER OF VAN LEER DRIVE & U.S. HIGHWAY 64, CONTAINING
0.69 ACRE (30,056 SQUARE FEET) IN THE VACANT LAND AREA ~ PLANNED
COMMERCIAL (C-P) DISTRICT.**

Case No. SR 08-901

Applicant: Buring/Thomas Partnership
Construction Engineering Services, Inc. – Representative

Request: Revoke Phase 4 of the Countryside Center C-P

LUCB and OPD recommendation: APPROVAL, with conditions

MOTION: Halbert

SECOND: Morrison

AYES: Boyd, Flinn, Ford, Halbert, Hedgepeth, Morrison, Sammons, Strickland, Ware
and Chairman Lowery
Brown and Collins did not cast a vote
Fullilove was absent

APPROVED

6. **RESOLUTION APPROVING A SPECIAL USE PERMIT LOCATED +4,300 FEET WESTWARDLY FROM A POINT ON PAUL R. LOWRY ROAD ROUGHLY 2,100 FEET NORTH OF NUCOR STEEL PLANT ACCESS DRIVE, CONTAINING 30.6 ACRES IN THE HEAVY INDUSTRIAL (I-H) DISTRICT.**

Case No. SUP 08-224

Applicant: Metal Management Memphis, Inc.

Request: Storage and processing of scrap metal

LUCB and OPD recommendation: APPROVAL

No Opposition at LUCB; No Public Hearing Required

MOTION: Hedgepeth

SECOND: Ford

AYES: Boyd, Brown, Collins, Flinn, Ford, Halbert, Hedgepeth, Morrison, Sammons, Strickland, Ware and Chairman Lowery
Fullilove was absent

APPROVED

7. **RESOLUTION APPROVING A SPECIAL USE PERMIT LOCATED ON THE SOUTHWEST CORNER OF JEFFERSON AVENUE AND MAIN STREET, CONTAINING .4365 ACRE IN THE CENTRAL BUSINESS (CBD) DISTRICT.**

Case No. SUP 08-228

Applicant: Summit Management Corporation
Allison T. Gilbert – Representative

Request: A Courtyard by Marriot Hotel containing 131 guest rooms

LUCB and OPD recommendation: APPROVAL, with one condition

No Opposition at LUCB; No Public Hearing Required

MOTION: Hedgepeth

SECOND: Ware

AYES: Boyd, Brown, Collins, Flinn, Ford, Halbert, Hedgepeth, Morrison, Sammons, Strickland, Ware and Chairman Lowery
Fullilove was absent

APPROVED

8. **ORDINANCE REZONING THE NORTHWEST CORNER OF SAM COOPER BLVD AND NORTH PERKINS STREET, CONTAINING 6,725 SQUARE FEET IN THE GENERAL OFFICE (O-G) DISTRICT, UP FOR T H I R D AND F I N A L READING.**
(Held from 10/07)

Ordinance No. 5277
Case No. Z 08-103

Applicants: Leopold L. Brown, Lorraine Brown &
W. A. & Sarah Newsom
Tim McCaskill – McCaskill & Associates - Representative

Request: Local Commercial (C-L) District

LUCB and OPD recommendation: APPROVAL, with conditions

MOTION: Hedgepeth
SECOND: Ware
AYES: Boyd, Brown, Collins, Flinn, Ford, Halbert, Hedgepeth, Morrison, Sammons,
Strickland, Ware and Chairman Lowery
Fullilove was absent

APPROVED

9. **ORDINANCE REZONING THE EAST SIDE OF NORTH SECOND STREET, OPPOSITE OF PEAR AND PLUM AVENUE INTERSECTIONS, CONTAINING 8.40 ACRES IN THE HEAVY INDUSTRIAL (I-H) DISTRICT, UP FOR T H I R D AND F I N A L READING.**

Ordinance No. 5280
Case No. Z 08-108

Applicant: Harbor View Properties, Inc.
Cindy Reaves, SR Consulting, LLC – Representative

Request: Mixed Use (MU) District

LUCB and OPD recommendation: APPROVAL

MOTION: Hedgepeth
SECOND: Ford
AYES: Boyd, Brown, Collins, Flinn, Ford, Halbert, Hedgepeth, Morrison, Sammons,
Strickland, Ware and Chairman Lowery
Fullilove was absent

APPROVED

CONSENT AGENDA – Items may be acted upon by one motion: SEE PAGE 2677 FOR ROLL CALL

10. **RESOLUTION REZONING THE WEST SIDE OF HERBERT ROAD; \pm 40 FEET SOUTH OF FISCHER STEEL ROAD, CONTAINING 9.55 ACRES IN THE VACANT LAND AREA ~ HEAVY INDUSTRIAL (I-H) DISTRICT, UP FOR F I R S T READING.**

Ordinance No. 5282

Case No. Z 08-110

APPROVED, on First reading

11. **ORDINANCE BEGINNING AT THE EAST SIDE OF ISLAND AVENUE, EXTENDING TO THE WEST SIDE OF DANNY THOMAS BOULEVARD, CONTAINING 4,229 FEET IN THE STREET RIGHT-OF-WAY ~MIXED USE (MU) DISTRICT, UP FOR S E C O N D READING.**

Ordinance No. 5281

Case No. SNC 08-801

APPROVED, on Second reading

12. **RESOLUTION ACCEPTING DEXTER RIDGE FARMS PD, AND AUTHORIZING RELEASE OF BOND.**

Case No. PD 04-307cc

(Contact No. CR-4886)

Resolution accepts completion of the improvements and the dedication of public streets and easements as shown on the final plat located on the northeast corner of Dexter Road and Wynne Road. The standard improvement contract was approved on August 3, 2004. Resolution also authorizes the release of the performance bond in the amount of \$422,000.00. This action is subject to County approval.

APPROVED

13. **RESOLUTION ACCEPTING SPRINGDALE CREEK APARTMENTS P.D., AND AUTHORIZING RELEASE OF BOND.**

Case No. PD 02-355

(Contract No. CR-4845)

Resolution accepts completion of the improvements and the dedication of public streets and easements as shown on the final plat located on the north side of Jackson Avenue, west of Meagher Street. The standard improvement contract was approved on January 6, 2004. Resolution also authorizes the release of the cash bond in the amount of \$13,700.00.

City Engineer recommends approval

APPROVED

14. **RESOLUTION APPROVING FINAL PLAT OF STONEBRIAR PLANNED DEVELOPMENT, PHASE 8.**

Case No. PD 03-355cc
Contract No. CR-5120

Resolution approves the final plat located on the northside of Stateline Road, east of Riverdale Road. Cost of the required improvements to be borne by the Developer. Resolution also authorizes the proper officials to execute the attached standard improvement contract. This action is subject to County approval.

City Engineer recommends approval

APPROVED

15. **RESOLUTION APPROVING FINAL PLAT OF UNIVERSITY PLACE PLANNED DEVELOPMENT, PHASE 3.**

Case No. PD 06-344
Contract No. CR-5121

Resolution approves the final plat located on the south side of Crump Blvd between Dudley Street and Camilla Street. Cost of the required improvements to be borne by the Agency and the Contractor. Resolution also authorizes the proper officials to execute the attached standard improvement contract.

City Engineer recommends approval

APPROVED

ROLL CALL CONSENT ITEMS

MOTION: Ware
SECOND: Morrison
AYES: Boyd, Brown, Collins, Flinn, Ford, Halbert, Hedgepeth, Morrison, Sammons, Strickland, Ware and Chairman Lowery
Fullilove was absent

APPROVED

MLGW FISCAL CONSENT – Items 16-33 may be acted upon by one motion:

Chairman Lowery recognized the following persons who spoke from the audience:

Jerry Collins, 220 S. Main, St., Mphs, TN 38103
Minister Suhkara Yahweh, 775 Porter Street, Mphs, TN 38126

16. **RESOLUTION APPROVING CONTRACT NO. 11225, POLE AUDIT, BETWEEN MLGW, AT&T, INC., COMCAST, KENTUCKY DATA LINK, INC., ZAYO BANDWIDTH TENNESSEE, LLC, XO COMMUNICATIONS, AND FURR AND ASSOCIATES, INC., ALL COLLECTIVELY KNOWN AS THE POLE AUDIT COMMITTEE (PAC), IN AN AMOUNT NOT TO EXCEED \$367,000.00. (THE AMOUNT OF \$275,000.00 WILL BE PAID TO FURR AND ASSOCIATES, INC. AND WILL BE REIMBURSED TO MLGW BY APPLICABLE PAC MEMBERS, AND THE AMOUNT OF \$92,000.00 WILL BE PAID TO AT&T, INC.)**

APPROVED

17. **RESOLUTION AWARDED CONTRACT NO. 11289, STORAGE AREA NETWORK (SAN) ADDITION, TO EMC CORPORATION, IN THE FUNDED AMOUNT OF \$632,340.00.**

APPROVED

18. **RESOLUTION AWARDED CONTRACT NO. 11297, ELECTRIC SUBSTATION 86 CHAIN LINK FENCE, TO SOUTH MEMPHIS FENCE COMPANY, INC., IN THE FUNDED AMOUNT OF \$47,970.00.**

APPROVED

19. **RESOLUTION APPROVING CHANGE NO. 8 TO CONTRACT NO. 10705, ORACLE SOFTWARE LICENSE AND SERVICE AGREEMENT, WITH ORACLE, INC., IN THE FUNDED AMOUNT OF \$313,744.50. (THIS COVERS THE PURCHASE OF 90 ADDITIONAL PROFESSIONAL USER LICENSES, PURSUANT WITH THE SOFTWARE AGREEMENT BETWEEN ORACLE CORPORATION AND MLGW, AND INCLUDES THE FIRST YEAR OF SUPPORT.)**

APPROVED

20. **RESOLUTION APPROVING CHANGE NO. 1 TO CONTRACT NO. 11070, UTILITY METER DATA APPLICATION, WITH AUTOMATED ENERGY, INC., (AEI), IN THE FUNDED AMOUNT OF \$18,000.00. (THIS INCREASES THE CONTRACT VALUE TO ACCOMMODATE ADDITIONAL ENROLLED METERS.)**

APPROVED

21. **RESOLUTION AWARDED 12-MONTH CONTRACT FOR ORNAMENTAL POLES TO SOUTHERN SALES & SERVICE COMPANY, INC. IN THE AMOUNT OF \$515,500.00.**

APPROVED

22. **RESOLUTION AWARDING CONTRACT FOR APPROXIMATELY 80,625 POUNDS OF 954 KCMIL WIRE TO HD SUPPLY UTILITIES IN THE AMOUNT OF \$144,318.75.**

APPROVED

23. **RESOLUTION AUTHORIZING EXERCISE OF OPTION TO EXTEND CONTRACTS FOR ELECTRO FUSION GAS FITTINGS WITH CHRIS GEORGE SALES AND M.T. DEASON COMPANY, INC. FOR THE SECOND 12-MONTH PERIOD IN THE AMOUNT OF \$4,282.00 AND \$27,791.38 RESPECTIVELY, TOTALING \$32,073.38.**

APPROVED

24. **RESOLUTION AWARDING CONTRACT FOR A DUMP TRUCK TO TAG TRUCK CENTER IN THE AMOUNT OF \$80,052.49.**

APPROVED

25. **RESOLUTION AWARDING CONTRACT FOR POLYETHYLENE DRAINAGE PIPE TO WILLIAMS EQUIPMENT & SUPPLY CO. IN THE AMOUNT OF \$54,930.00.**

APPROVED

26. **RESOLUTION AWARDING CONTRACT FOR A FIBER MANAGEMENT SYSTEM TO JDSU CORPORATION IN THE AMOUNT OF \$70,381.00.**

APPROVED

27. **RESOLUTION AWARDING CONTRACT FOR SCADA REMOTE RADIOS TO EDISON AUTOMATION, INC. IN THE AMOUNT OF \$47,970.00.**

APPROVED

28. **RESOLUTION AWARDING CONTRACT FOR A MULTI-POWER UNIT TO SCRUGGS EQUIPMENT COMPANY IN THE AMOUNT OF \$46,351.48.**

APPROVED

29. **RESOLUTION AWARDING CONTRACT FOR HYDRAULIC CRANES TO:**

All Wheel Drive Equipment.....	\$108,376.00
Altec Industries, Inc.....	341,504.00
Total.....	\$ 449,880.00

APPROVED

30. **RESOLUTION AWARDING CONTRACT FOR FORKLIFT TRUCKS TO SHAW MATERIAL HANDLING SYSTEMS IN THE AMOUNT OF \$106,278.10.**

APPROVED

31. **RESOLUTION AWARDING 12-MONTH CONTRACT TO PATTERSON WELDING SERVICE TO INCLUDE TWO ADDITIONAL 12-MONTH OPTIONS TO RENEW FOR FABRICATIONS AND REPAIRS OF SUBSTATION EQUIPMENT IN THE AMOUNT OF \$90,000.00.**

APPROVED

32. **RESOLUTION AWARDING CONTRACT FOR APPROXIMATELY 2000 FEET OF 12" EPOXY-COATED STEEL PIPE TO SUPPLY LINE OF MEMPHIS IN THE AMOUNT OF \$220,940.00.**

APPROVED

33. **RESOLUTION APPROVING CONTRACT WITH THE MEMPHIS REGIONAL CHAMBER IN THE AMOUNT OF \$175,000.00 FOR THE 2008 COMMITMENT TO MEMPHIS 2005 ECONOMIC DEVELOPMENT STRATEGIC PLAN, AND ITS SUCCESSOR, THE MEMPHIS ED PLAN, PROVIDED THAT NO PART OF THIS FUNDING SHALL BE USED TO OPPOSE OR PROMOTE BALLOT INITIATIVES.**

APPROVED

MLGW ROLL CALL CONSENT ITEMS

MOTION: Ware
SECOND: Collins
AYES: Boyd, Collins, Flinn, Halbert, Hedgepeth, Morrison, Sammons, Strickland,
Ware and Chairman Lowery
Brown and Ford did not cast a vote
Fullilove was absent

APPROVED

34. **APPOINTMENTS**

ANIMAL SHELTER ADVISORY COMMITTEE

Appointments

Frank James
Janice Taylor Vaughn

MOTION: Flinn
SECOND: Collins
AYES: Boyd, Collins, Flinn, Ford, Halbert, Hedgepeth, Morrison, Sammons, Strickland,
Ware and Chairman Lowery
Brown did not cast a vote
Fullilove was absent

APPROVED

35. **RESOLUTION APPROVING LIBRARY INFRASTRUCTURE – CIP PROJECT IS01056, TO MAINTAIN THE LIBRARY’S FIBER-OPTIC NETWORK AND TO UPDATE THE HARDWARE NECESSARY TO PROVIDE SERVICES TO THE BRANCHES.**

MOTION: Collins
SECOND: Morrison
AYES: Boyd, Collins, Flinn, Ford, Halbert, Hedgepeth, Morrison, Sammons, Strickland,
Ware and Chairman Lowery
Brown did not cast a vote
Fullilove was absent

APPROVED

36. **RESOLUTION AMENDING THE FY 2009 CAPITAL IMPROVEMENT BUDGET BY TRANSFERRING AN ALLOCATION AND APPROPRIATING \$275,000.00 FUNDED BY SEWER FUNDS FROM REHAB EXISTING SEWERS, PROJECT NUMBER SW02001, TO INSTALL CIPP FY09, PROJECT NUMBER SW02078 AND FOR A CONSTRUCTION CONTRACT WITH INSITUFORM TECHNOLOGIES, INC.**

MOTION: Morrison
SECOND: Boyd
AYES: Boyd, Collins, Flinn, Ford, Halbert, Hedgepeth, Morrison, Sammons, Strickland,
Ware and Chairman Lowery
Brown did not cast a vote
Fullilove was absent

APPROVED

37. **RESOLUTION AMENDING THE FY 2009 CAPITAL IMPROVEMENT BUDGET BY TRANSFERRING AN ALLOCATION AND APPROPRIATING \$416,182.00 FUNDED BY G.O. BONDS FROM ADA CURB RAMP, PROJECT NUMBER PW04007 TO ADA CURB RAMPS GROUP 36, PROJECT NUMBER PW04068, TO INSTALL CURB RAMPS AND FOR A CONSTRUCTION CONTRACT WITH PRECISE CONCRETE WORKS.**

MOTION: Morrison
 SECOND: Collins
 AYES: Boyd, Collins, Flinn, Ford, Halbert, Hedgepeth, Morrison, Sammons, Ware and
 Chairman Lowery
 Brown and Strickland did not cast a vote
 Fullilove was absent

APPROVED

38. **RESOLUTION URGING GOVERNOR PHIL BREDESEN AND THE TENNESSEE GENERAL ASSEMBLY TO CORRECT DEFICIENCIES IN THE BASIC EDUCATION PROGRAM FORMULA, FOR THE PURPOSE OF ADEQUATELY AND EQUITABLY FUNDING MEMPHIS CITY SCHOOLS AND SHELBY COUNTY SCHOOLS.**

MOTION: Collins
 SECOND: Morrison
 AYES: Boyd, Collins, Flinn, Ford, Hedgepeth, Morrison, Sammons, Strickland, Ware
 and Chairman Lowery
 Brown and Halbert did not cast a vote
 Fullilove was absent

APPROVED

Chairman Lowery stated that Item #39 was not approved in Executive Session, so without objection we will add Item #39 on for discussion

39. **RESOLUTION EXPRESSING CONCERN FOR COUNCILWOMAN JANIS FULLILOVE.**

MOTION: Boyd
 SECOND: Sammons

MAIN MOTION: Ware – Delay for 2 weeks
 SECOND: Ford
 AYES: Brown, Flinn, Ford, Halbert, Hedgepeth and Ware
 NAYS: Boyd, Morrison, Sammons, Strickland and Chairman Lowery
 Collins did not cast a vote
 Fullilove was absent

APPROVED, item delayed for 2 weeks, set us as Special Item #2

Jerry Collins, President of MLGW, requested that the Joseph Lee legal fee issue be taken off the Minutes and sent back to Committee. Chairman Lowery stated that without objection this item will back to the MLGW Committee in two weeks and on the full agenda in two weeks. Councilman Boyd rejected this, but later withdrew his rejection.

MINUTES

Approval of the Minutes of the regular meeting of October 7, 2008 with the following motion:

MOTION: Sammons
SECOND: Morrison

Councilman Sammons stated that he read the minutes and found them in order, but Councilman Collins has some items that he would like to discuss prior to our approval. Councilman Collins stated that he did not find the minutes in order with regards to the resolution that was sponsored by Councilman Flinn. Councilman Flinn stated the wording in the body of the resolution needs to be adjusted in order for the minutes to be approved. Councilman Flinn made the following motion below

MAIN MOTION: Flinn – Slight wording change – Add the activating language supports and request funding of the appropriation

Councilman Lowery asked are there any objections. Morrison stated he had objection. After Council Flinn explained the change Councilman Morrison stated that there was no objection

AYES: Boyd, Collins, Flinn, Ford, Halbert, Hedgepeth, Morrison, Sammons, Strickland, Ware and Chairman Lowery
Brown did not cast a vote
Fullilove was absent

APPROVED, as amended

INTRODUCTION OF ITEMS ON MATTERS BY THE GENERAL PUBLIC:

Chairman Lowery recognized the following persons who spoke from the audience:

William Blevens, 1750 Dupont, Mphs, TN 38127
Walter Broady, 4256 Ledbetter, Mphs, TN 38109
Jerry Jackson, 3770 Trufant, Mphs, TN 38128
Bruce Jett, 125 Gayoso, #502, Mphs, TN 38103
Michael Love, 50 S. Fourth St., Mphs, TN 38105

ADJOURNED MEETING AT 7:55 P.M.

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Upon statement of the Chairman, without objection, the meeting was adjourned, subject to the call of the Chairman.

C H A I R M A N

Attest:

Deputy Comptroller/Council Records